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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Charles J. Thomas

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EXAMINER

PYZOCHA, MICHAEL J

ART UNIT

PAPER NUMBER

2437

NOTIFICATION DATE

DELIVERY MODE

11/21/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@crbcp.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/628,173	<b>Applicant(s)</b> THOMAS ET AL.	
	<b>Examiner</b> MICHAEL PYZOSHA	<b>Art Unit</b> 2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-4, 7-12, 14-19, 22-24, 27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 3, 7-12, 14-18, 22-24, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 4 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 2-4, 7-12, 14-19, 22-24, 27, and 28 are pending.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/14/2008 has been entered.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7, 8, 10-12, 16-18, 22, 23, 27, and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over Conkwright et al. (US 7139723) in view of Levin et al. (US 6272152).

As per claims 27 and 28, Conkwright et al. discloses a method and system for obscuring the identity of the course of a message while allowing the content of the message, and subsequent messages, issued from that source to be analyzed by a data analysis entity, and wherein the source is coupled to a cable television system operated by a system operator for receiving television programming content therefrom,

comprising the steps of: forming the content of a message issued from the source to form a first message, said first message containing source identification indicia and wherein the system operator knows the identity of the source of said first message, said first message being transmitted upstream to a remote device on the cable television system (see column 4 line 58 through column 5 line 9); receiving said first message by said remote device (see column 10 lines 55-65); substituting said source identification indicia with anonymous identification indicia, wherein said anonymous identification indicia cannot be traced back to the source by the data analysis entity (see column 4 line 58 through column 5 line 17 and column 11 lines 5-17) and encrypting said first message along with said anonymous identification indicia into a second message and transmitting said second message to a location to be analyzed (see column 11 lines 5-39).

Conkwright fails to disclose encrypting and decrypting the first message.

However, Levin et al. teaches obscuring the content of a message from a system operator by encrypting content of a message issued from the source to form a first message, said first message containing source identification indicia and wherein the system operator knows the identity of the source of said first message, said first message being transmitted upstream to a remote device on the cable television system (see column 23 lines 1-15); decrypting said first message into a first decrypted message upon receipt of said first message by said remote device (see column 4 line 61 through column 5 line 5 where the source address identifies the source);.

At the time of the invention it would have been obvious to a person of ordinary skill in the art to encrypt the first message of Conkwright.

Motivation, as recognized by one of ordinary skill in the art, to do so would have been to protect the privacy of the content.

As per claims 7, 8, 22, and 23, the modified Conkwright and Levin et al. system discloses inserting system network segment data into the first decrypted message (see Levin et al. column 4 line 61 through column 5 line 5 where the source and destination address define a network segment).

As per claims 10 and 16, the modified Conkwright and Levin et al. system discloses the source is a set top box (see Levin et al. column 6 lines 53-67 and Conkwright column 4 lines 13-31).

As per claims 11, 12, 17, and 18, the modified Conkwright and Levin et al. system fails to explicitly disclose the source is a cell phone or a PDA. However, Official Notice is taken that at the time of the invention one of ordinary skill in the art would have recognized to use a cell phone or a PDA as the source in the modified Conkwright and Levin et al. system. Motivation to do so would have been to allow for the system to be implemented in portable devices.

5. Claims 2, 3, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Conkwright and Levin et al. system as applied to claims 27 and 28 above, and further in view of Demello et al. (US 20010036224).

As per claims 2, 3, 14, and 15, the modified Conkwright and Levin et al. system fails to disclose generating the anonymous identification indicia using a hash algorithm such that the indicia is consistent for each source.

However, Demello et al. teaches such generation of anonymous identification indicia (see paragraph [0136]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the generation method of Demello et al. in the modified Conkwright and Levin et al. system.

Motivation to do so would have been to create a unique identifier (see Demello et al. paragraph [0136]).

6. Claims 9 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Conkwright and Levin et al. system as applied to claims 7 and 24 above, and further in view of Link et al. (US 20020059632).

As per claims 9 and 24, the modified Conkwright and Levin et al. system fails to disclose the source data comprises cluster code data.

However, Link et al. teaches the use of cluster code data (see paragraph [0076]).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the cluster code data of Link et al. in the source data of the modified Conkwright and Levin et al. system.

Motivation to do so would have been to group the viewing population based on socioeconomic factors (see Link et al. paragraph [0076]).

***Allowable Subject Matter***

7. Claims 4 and 19 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: The prior art teaches the general concepts of securely storing equipment and password protecting computers, but fails to explicitly disclose “step of substituting said source identification indicia with anonymous identification indicia is performed at a secure location where the viewership data analysis entity cannot gain access can only gain access with assistance from the system operator or an agent thereof and wherein the secure location comprises a computer that is password- protected and wherein the system operator, or an agent thereof, does not have the password but the data analysis entity does have the password” in combination with the limitations of the independent claims.

***Response to Arguments***

9. Applicant's arguments with respect to claims 7-12, 16-18, 27, and 28 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's arguments filed 10/14/2008 have been fully considered but they are not persuasive. Applicant argues that one of ordinary skill in the art would not be motivated to combine Demello with Conkwright.

11. With respect to Applicant's argument that one of ordinary skill in the art would not be motivated to combine Demello with Conkwright, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Demello teaches the benefit of using a hash algorithm as to create a unique identifier (see Demello et al. paragraph [0136]). A hash algorithm also provides a benefit that this unique identifier will be the same length no matter what the input. Therefore, one of ordinary skill in the art would be motivated to combine Demello with Conkwright.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL PYZOCHA whose telephone number is (571)272-3875. The examiner can normally be reached on Monday-Thursday, 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Pyzocha/  
Examiner, Art Unit 2437